

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

GARY PACE, Respondent  
v.

CITY OF ST. JOSEPH; Appellant

TREASURER OF THE STATE OF MISSOURI –  
CUSTODIAN OF THE SECOND INJURY FUND. Respondent

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DOCKET NUMBER WD74234, WD74235, WD74236, and WD74237

DATE: May 22, 2012

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Appeal From:

Labor and Industrial Relations Commission

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Appellate Judges:

Division Three

James Edward Welsh, P.J., Cynthia L. Martin, J., and Glen Dietrich, Sp. J.

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Attorneys:

Bart Eisfelder, Kansas City, MO

Counsel for Appellant,

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Attorneys:

Benjamin Creedy, St. Joseph, MO Counsel for Respondent, Pace

Maureen Shine, Kansas City, MO Counsel for Respondent, Treasurer of the State of MO

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**GARY PACE, Respondent, v. CITY OF ST. JOSEPH; Appellant,  
TREASURER OF THE STATE OF MISSOURI - CUSTODIAN OF THE  
SECOND INJURY FUND, Respondent**

**WD74234, WD74235,  
WD74236, and WD74237**

**Labor and Industrial Relations Commission**

Before Division Three Judges: Welsh, P.J., Martin, J., and Dietrich, Sp. J.

The City of St. Joseph appeals from the Labor and Industrial Relations Commission's determination that Gary Pace was entitled to permanent and total disability benefits for a knee injury he sustained at work on December 9, 2002. The City asserts that the Commission erroneously applied the law regarding the substantial factor test when it found that Pace's employment with the City on December 9, 2002, which resulted in Pace's injuring his right knee, was a substantial factor in causing Pace's injuries to his back, hip, and left upper extremity in 2004. Moreover, the City contends that the Commission's determination that Pace was permanently and totally disabled due to the December 9, 2002 right knee injury alone was not supported by competent and substantial evidence. Further, the City contends that competent and substantial evidence did not support the Commission's determination that Pace's back pain, bilateral carpal tunnel syndrome, complex regional pain syndrome, and chronic reactive depression were a result of the December 9, 2002 knee injury.

**AFFIRMED**

**Division One Holds:**

(1) The Commission clearly applied the substantial factor test when it found that Pace's work with the City on December 9, 2002, which resulted in Pace's injuring his right knee, was a substantial factor in causing Pace's injuries to his back, hip, and left upper extremity in 2004. The City's argument that the Commission erroneously applied the law is without merit. Moreover, competent and substantial evidence supported the Commission's determination that Pace's employment with the City on December 9, 2002, which resulted in Pace's right knee injury, was the substantial factor in causing Pace's right knee to give out and in causing him to fall on November 2, 2004, and on December 10, 2004, and resulted in Pace's injuring his back, hip, and left upper extremity.

(2) Given Dr. Abrams's and Dr. Russell's testimony and reports, competent and substantial evidence supported the Commission's determination that Pace was permanently and totally disabled as a result of the December 9, 2002 right knee injury alone. The Commission's finding that the December 9, 2002 injury was the substantial factor in causing Pace's right knee to give out and in causing Pace to fall on November 2, 2004, and December 10, 2004, was not contrary to the overwhelming weight of the evidence.

(3) Substantial and competent evidence supported the Commission's determination that Pace's back pain, bilateral carpal tunnel syndrome, complex regional pain syndrome, and chronic reactive depression were a result of the December 9, 2002 knee injury, and such determination was not against the overwhelming weight of the evidence.

Opinion by James Edward Welsh, Presiding Judge

May 22, 2012

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**